

Attorney Docket No. GMX-002  
Appl. No. 10/724,532  
Amtd. Dated February 13, 2006  
Reply to Final Office Action of December 14, 2005

### Remarks

#### Claim amendments:

Claims 1-20 are pending in the application. Claims 1 and 16 have been amended. Claims 17-20 have been cancelled. Claim 1 is amended to correct the plurality of "substitutions". Claim 16 has been amended to distinguish the linked nucleotide sequences for the sense strands of SEQ ID NOS: 3 and 5 and for the antisense strands of SEQ ID NOS: 4 and 6.

New claims 21-24 have been added, with support at page 51, last paragraph. No new matter is believed to have been added. No additional claim fees are due.

Applicant wishes to thank Examiner Carlson for her courtesy in the telephone interview with the Applicant and Applicant's counsel on February 9, 2006.

#### Claim Objections and rejections:

In view of the submission of this response within two months of the final action, Applicant requests issuance of an Examiner's advisory action, before or near the end of the three month shortened statutory period.

All rejections and rejections in the prior Office action dated July 29, 2005, as a result of Applicant's response on November 1, 2005, have been withdrawn, with the exception of the following maintained and new rejections and objections.

Claims 17 and 18 are rejected under 35 USC 101 as directed to non-statutory subject matter, for failing to claim the matter as an isolated polypeptide. Applicant understand that the Examiner will withdraw this rejection in view of the term "isolated polypeptide" on the second line of claim 17.

Claims 15 and 16 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Applicant has amended claim 16 to distinguish the sense strands of SEQ ID NOS: 3 and 5 are linked to a second nucleotide sequence that encodes a targeted protein, while the antisense strands of SEQ ID NOS: 4 and 6 are linked to a second nucleotide sequence that is a

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compliment of a polynucleotide that encodes a targeted protein. Applicant requests reconsideration and withdrawal of the rejection in view of the claim amendment.

Claims 19 and 20 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 3 and 4. Applicant agrees. Nevertheless, in view of the cancellation of Claims 19 and 20, the objection will be moot.

Claims 1-3, 11-13, 17, 18 and 19 are rejected under 35 USC 102(b) as being anticipated by Kimura et al. (1997).

Regarding claims 1-3 and 11-13, Applicant traverses the rejection. Kimura et al. (1997) shows a first double mutation of Asn34(12)Ala/Ile40(18)Ala and a second double mutation of Phe35(13)Ala/Leu44(22)Ala, but does not disclose or suggest a double mutation that includes at least two of the amino acid mutations found of Applicant's claim. Applicant understood during the interview that the Examiner plans to withdraw this rejection and allow the claims.

Regarding claims 17, 18 and 19, Applicant noted during the interview that the subject matter of Claim 17 is a sarco(endo)plasmic localization signal, which is not disclosed in Kimura et al. (1997). Applicant understands that the Examiner intends to maintain the rejection. In order to further prosecution and pass the application to allowance, Applicant has cancelled Claims 17-20 without prejudice.

At the Examiner's kind suggestion, Applicant submits new Claims 21-24 directed to a method of using the isolated polypeptide as a sarco(endo)plasmic localization signal. Applicant contends that the use of the isolated polypeptide as a localization signal is neither disclosed or suggested in the prior art of record. Applicant respectfully requests entry of the new claims and their allowance.

Claims 8-10 have been identified as allowable. Claims 4-7 and 20 were objected to. Claim 20 has been canceled. Applicant understands that with the withdrawal of the rejection to Claims 1-3, the objection to Claims 4-7 will become moot.

### CONCLUSION


Applicant believes that this provides a complete response to all of the objections and rejections of the final action. For the reasons set forth above, claims 1-16 and new claims 21-24

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are believed patentable. Applicant requests withdrawal of all rejections and allowance of all pending claims.

Respectfully submitted,

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